

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

February 13, 2008

Charles R. Fulbruge III  
Clerk

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No. 06-41758  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

HENRY DELEON

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:05-CR-250-1

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Before REAVLEY, SMITH, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

Henry DeLeon was convicted by a jury of conspiring to possess with intent to distribute and with possessing with intent to distribute more than 500 grams of a substance containing methamphetamine. He was sentenced to concurrent terms of life imprisonment. In his sole issue on appeal, DeLeon maintains the district court abused its discretion by replacing an impaneled, with an alternate, juror after the close of evidence but before deliberations.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

The district court has the discretion to remove a juror who is “unable to perform or . . . [is] disqualified from performing [his] duties”. FED. R. CRIM. P. 24(c)(1); *United States v. Huntress*, 956 F.2d 1309, 1312 (5th Cir. 1992). The removal of the juror fell within the wide discretion afforded to the district court, in the light of its stated concern that, during deliberations, the juror could reveal the particularized information he possessed and act as a witness, thereby calling into question the validity of the verdict. See *Huntress*, 956 F.2d at 1312.

AFFIRMED.